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COMMONWEALTH OF VIRGINIA, ex rel.

HARRY M. LANTZ,
Petitioner

v.

CASE NO. PUE-2002-00576

MONTVALE WATER COMPANY, INC.,
Defendant

HEARING EXAMINER'S RULING

December 16, 2002

On December 11, 2002, Montvale Water Company, Inc. ("Montvale" or the "Company") filed a Motion to Amend Notice to Customers of Hearing on Raising of Rates. In its Motion, the Company states the notice sent to its customers on August 20, 2002, pursuant to § 56-265.13:5 of the Code of Virginia inadvertently omitted the proposed changes in the water rates above 2,000 gallons of water usage. Montvale seeks to amend its notice to accurately reflect the proposed changes. The Company further states the complete schedule of proposed rates has been displayed in its offices and other public places and was distributed to customers at a meeting held on September 7, 2002. The Company believes it is necessary to include the additional proposed rates in order to achieve its goal of water conservation. Montvale has not implemented its proposed rates.

The Company proposes to increase its monthly rates and fees as follows:

	<u>Current</u>	<u>Proposed</u>
Minimum	\$7.00 (for 3,000 gallons of water usage)	\$20.75 (for 2,000 gallons of water usage)
	Next 2,000 gallons at \$2.50 / 1,000 gallons	Next 3,000 gallons at \$2.25 / 1,000 gallons
	Next 5,000 gallons at \$2.00 / 1,000 gallons	Next 3,000 gallons at \$3.25 / 1,000 gallons
	Next 10,000 gallons at \$1.20 / 1,000 gallons	Over 8,000 gallons at \$5.00 / 1,000 gallons
	Over 20,000 gallons at \$1.00 / 1,000 gallons	

The Company also proposes to increase its tap-on fee from \$750.00 to \$1,500.

The Commission Staff has no objection to the Company's motion being granted.

The Company's Motion raises a number of concerns. First and foremost are the notice requirements of § 56-265.13:5 of the Code of Virginia. This statute provides, in part, that:

B. Unless a small water or sewer utility notifies in writing all of its customers of any changes in its rates, charges, fees, rules and regulations at least forty-five days in advance of any change in any one of them, the utility shall not make any such changes. A copy of such notification shall be forwarded to the Commission at the same time as provided to the customers. The notice to the customers shall identify the nature of the change, the effective date of the change, and in the case of changes in rates, fees, and charges, shall identify the new rates, fees, and charges.

It appears from the Company's Motion that the notice sent by the Company to its customers on August 20, 2002, informed the Company's customers of the change in the minimum usage rate, but inadvertently failed to inform them of the proposed increasing block rates above the minimum. Consequently, the only rate that could go into effect on November 1, 2002, on an interim basis, was the proposed minimum rate. Usage above the proposed minimum would have to be billed at the old block rates. The Company has not yet implemented any changes in rates.

The Company's Motion attempts to cure its previously deficient notice. As such, the public notice advising the Company's customers of the hearing on the Company's proposed changes in its rates and fees will be amended to also provide the Company's customers with adequate written notice of all the Company's proposed changes in its rates and establish a new effective date for those rates and fees.

Good cause having been shown, I find the Company's Motion to Amend Notice to Customers of Hearing on Raising of Rates should be granted. I further find the "Notice to the Public of a Hearing on the Proposed Changes in Water Rates and Fees of Montvale Water Company, Inc. Case No. PUE-2002-000576" should be amended to reflect all of the rates proposed by the Company. Accordingly,

IT IS DIRECTED THAT:

(1) The Company's Motion to Amend Notice to Customers of Hearing on Raising of Rates is granted.

(2) The procedural schedule established by the Ruling entered herein December 4, 2002, shall remain in effect, except as modified herein.

(3) Pursuant to § 56-265.13:6 of the Code of Virginia, the Company may implement its proposed rates and fees on an interim basis effective March 1, 2003, subject to refund with interest, until such time as the Commission has made a final determination in this proceeding.

(4) The Company forthwith shall make a copy of its proposed tariff and accompanying materials available for public inspection during regular business hours at its business office located in the Company's office on Volunteer Road in Montvale, Virginia 24122.

(5) On or before December 30, 2002, the Company shall cause a copy of the following notice to be sent to each of its customers by first-class mail, postage prepaid (bill inserts are acceptable):

**NOTICE TO THE PUBLIC OF A HEARING
ON THE PROPOSED CHANGES IN WATER RATES AND
FEES OF MONTVALE WATER COMPANY, INC.
CASE NO. PUE-2002-000576**

TAKE NOTICE THAT Montvale Water Company, Inc. (the "Company"), pursuant to § 56-265.13:1 et seq. of the Code of Virginia, hereby notifies its customers of its intent to increase its rates and fees for water service effective March 1, 2003.

The Company proposes to increase its monthly rates as follows:

	<u>Current</u>	<u>Proposed</u>
Minimum	\$7.00 (for 3,000 gallons of water usage)	\$20.75 (for 2,000 gallons of water usage)
	Next 2,000 gallons at \$2.50 / 1,000 gallons	Next 3,000 gallons at \$2.25 / 1,000 gallons
	Next 5,000 gallons at \$2.00 / 1,000 gallons	Next 3,000 gallons at \$3.25 / 1,000 gallons
	Next 10,000 gallons at \$1.20 / 1,000 gallons	Over 8,000 gallons at \$5.00 / 1,000 gallons
	Over 20,000 gallons at \$1.00 / 1,000 gallons	

The Company also proposes to increase its tap-on fee from \$750.00 to \$1,500.

Pursuant to § 56-265.13:5 of the Code of Virginia, the Company's customers are notified that its proposed rates and fees, as set forth herein, will be effective for service rendered on and after March 1, 2003.

Pursuant to § 56-265.13:6 of the Code of Virginia, the State Corporation Commission ("Commission") has allowed the Company's proposed increase in rates and fees to go into effect on an interim basis effective March 1, 2003, subject to refund with interest, pending a final determination by the Commission in this matter.

The Commission has scheduled a hearing before a Hearing Examiner to begin at 10:00 a.m. on April 16, 2003, in the Commission Second Floor Courtroom in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23218, to receive evidence relevant to the Company's proposed increase in rates and fees.

PLEASE TAKE NOTICE THAT while the total revenue requirement that may be approved by the Commission is limited to the amount produced by the Company's proposed rates, the rates and fees approved for each type of service may either be higher than or lower than those proposed by the Company.

A copy of the Company's proposed tariff and accompanying materials is available for public inspection during regular business hours at the Company's business office on Volunteer Road in Montvale, Virginia 24122. A copy also is available Monday through Friday, 8:15 a.m. to 5:00 p.m. at the Commission's Document Control Center located on the First Floor of the Tyler Building at the address listed above.

Any person desiring to comment in writing on the proposed rates may do so by directing such comments on or before January 30, 2003, to Joel H. Peck, Clerk of the Commission, c/o Document Control Center, P. O. Box 2118, Richmond, Virginia 23218, and refer to Case No. PUE-2002-00576. Any person desiring to make a statement at the public hearing, either for or against the application, need only appear in the Commission's courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself as a public witness to the Commission's Bailiff.

Any person who expects to submit evidence, cross-examine witnesses, or otherwise participate in the proceedings as a

Respondent pursuant to Rule 5 VAC 5-20-80 B of the Commission's Rules of Practice and Procedure should promptly obtain a copy of the Hearing Examiner's Rulings dated December 4 and 16, 2002, from the Clerk of the Commission at the address set forth above for full details concerning the procedural schedule and instructions on participation. A copy of the Hearing Examiner's Ruling outlining details for participation, and setting forth the complete procedural schedule is available from the Commission's web site :
<http://www.state.va.us/scc/caseinfo/orders.htm>.

Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD) at least seven (7) days before the scheduled hearing date.

All written communications to the Commission regarding this case should be directed to the Clerk of the Commission at the address set forth above and should refer to Case No. PUE-2002-00576.

MONTVALE WATER COMPANY, INC.

(6) The Company forthwith shall serve a copy of this Ruling on the Chairman of the Board of Supervisors of each county in which the Company offers service, and/or the Mayor or Manager of every city and town (equivalent officials in the counties, cities, and towns having alternate forms of government) in which the Company offers service. Service shall be made by first-class mail or delivery to the customary place of business or to the residence of the person served.

(7) The Company shall mail a copy of the foregoing notice to the Commission's Staff contemporaneously with its mailing to the Company's customers.

(8) At the commencement of the hearing scheduled herein, the Company shall provide the Commission with proof of notice as required by paragraphs (5) and (6) of this Ruling.

Michael D. Thomas
Hearing Examiner